

EXHIBIT 5

Confidential - Per 2004 MDL 1358 Order

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IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE:
Methyl Tertiary Butyl:MDL NO. 1358 (SAS)
Ether ("MTBE") :
Products Liability :
Litigation :

In Re:
City of New York

CONFIDENTIAL (Per 2004 MDL 1358 Order)

April 17, 2008

Videotaped Deposition of
JAMES J. ROBERTS, held in the law
offices of McDermott, Will & Emery, 340
Madison Avenue, New York, New York,
beginning at approximately 10:15 a.m.,
before Ann V. Kaufmann, a Registered
Professional Reporter, Certified
Realtime Reporter, Approved Reporter of
the U.S. District Court, and a Notary
Public.

GOLKOW TECHNOLOGIES, INC.
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1 interrupt. You called this Exhibit 6 in
2 the question.

3 MR. STACK: No, Exhibit 2, I
4 apologize. If I said Exhibit 6, it is
5 because I was looking at the number 6
6 somewhere here in front of me and it
7 stuck in my head.

8 BY MR. STACK:

9 Q. Currently does the City
10 have a valid New York State DEC permit
11 to operate Jamaica Water Supply wells
12 that were transferred to the City?

13 A. We received a renewal to
14 our permit.

15 Q. And with respect to the
16 operation of the wells, and I certainly
17 want to focus on that, you are answering
18 questions in the second page relative to
19 wells at Station 6. That would be 6,
20 6A, 6B, 6C, 6D, and 33.

21 A. Where are you?

22 Q. I am at the bottom of the
23 page, Jim, bottom line right here, just
24 looking at the list.

1 A. I am sorry.

2 Okay. Uh-huh.

3 Q. With regard to the five
4 wells at Station 6, are they currently
5 fully operational?

6 A. Are they currently in
7 service?

8 Q. First, fully operational.
9 Will they run and pump water?

10 A. I am not 100% sure of the
11 status of those wells. I do not have
12 that firsthand knowledge. I do not
13 believe that they are in service.

14 Q. And when you say "in
15 service," what do you mean?

16 A. Putting water into the
17 system.

18 Q. And with regard to the
19 project to bring Station 6 on line with
20 water treatment to produce 10 million
21 gallons per day, has the 10% design
22 phase been completed on that project?

23 A. If it is at 10% design, I
24 do not know whether the final payments

1 were made or, you know, again, whether
2 the ministerial pieces of concluding
3 that contract have been taken care of or
4 not. It is my understanding that there
5 was a final conceptual design document
6 prepared and disseminated. And, you
7 know, whether that means that the
8 contract is closed or not I cannot speak
9 to.

10 Q. With respect to the
11 Station 6 project, is there funding, as
12 far as you know, for the final design
13 work to do the detailed engineering and
14 design for Station 6?

15 A. There is funding -- to my
16 knowledge, there is funding in our
17 current plan for that work. I do not
18 know specifically what the level of
19 funding versus the anticipated cost is,
20 but I know that there is money in the
21 budget.

22 Q. And with regard to your
23 understanding, when is the design phase
24 for Station 6 going to be completed?

1 A. It is -- the contract to do
2 that work has not been let yet.

3 Q. Do you know what the
4 projected date is to complete the design
5 work for Station 6?

6 A. That would be better
7 answered by my counterpart in BEDC in
8 Design and Construction.

9 Q. With regard to the future
10 use of Station 6, do you know what the
11 proposed date of completion of
12 construction is for that project?

13 A. Well --

14 Q. If you do?

15 A. The answer is you cannot
16 know what the proposed date of future
17 construction completion is when the
18 contract is not let yet; right?

19 Q. And with regard to the
20 construction contract -- and I
21 apologize, I do not know what the
22 practices of the City are -- do you
23 sequentially issue your contracts so
24 that the -- you would have a design

1 contract which would enable you to put
2 together a bid package and then put the
3 construction contract out to bid?

4 MR. PLACHE: Objection; you
5 can answer.

6 A. Ask the question again, I
7 am sorry.

8 Q. Sure. With regard to the
9 Station 6 project, as you understand it,
10 has a contract been let for final design
11 of the facility?

12 A. As I understand it, no.

13 Q. And with regard to the
14 practices generally employed by the
15 City, do you wait for the completion of
16 the design phase in order to come up
17 with a bid package for construction?

18 MR. PLACHE: Objection.

19 A. There are a couple of ways
20 of doing that work. The method you just
21 described is one. There are also
22 vehicles, such as design-build, operate
23 and design-build, that are available. I
24 do not think the decision as to the

1 mechanism for either the design and/or
2 the design and construction, I do not
3 think that decision has been made yet by
4 the commissioner's office.

5 Q. With regard to your
6 personnel who are responsible for
7 operating the water system, do you know
8 what date they have been given as to the
9 startup date for Station 6 to actually
10 deliver water to the system?

11 A. No.

12 Q. Do you know if there is any
13 firm date that has been identified by
14 which the personnel in your -- under
15 your supervision on the groundwater
16 system have been told by 2020 be
17 prepared, we are going to bring the
18 system on line?

19 MR. PLACHE: Objection.

20 A. Those dates are better
21 answered by the bureau that is handling
22 the construction, the design and
23 construction end of it; right? So the
24 schedule of events and, you know, the

1 budget questions that relate to that are
2 better answered by them. They build it;
3 we operate it.

4 Q. And with regard to the
5 operation of Station 6, have you been
6 provided with any information indicating
7 a firm date to bring Station 6 on line?

8 MR. PLACHE: Objection.

9 A. The issue of when that
10 would be brought on line -- my
11 perspective is that we are looking to
12 get that -- the entire system, but let's
13 stick with Station 6 because I think
14 that's the one piece of the system that
15 is best understood and we are furthest
16 along in terms of identifying
17 conceptually what needs to be done in
18 order to make it, you know, a useful,
19 viable plant.

20 My preference would be to
21 have that on line sooner rather than
22 later; right? And so the question of
23 how that dovetails with the overall, you
24 know, agency budget and priorities is

1 something that my other deputy
2 commissioner is really tasked with
3 doing. But the money is in -- there is
4 money in the budget towards the project,
5 so it is still on the -- you know, it is
6 still on our radar to get done.

7 Q. And with respect to your
8 position, you are the deputy
9 commissioner who is currently
10 responsible for supervising the
11 operation of the groundwater well system
12 in Queens; am I correct?

13 A. Correct.

14 Q. Have you been provided with
15 any date by which the other bureaus or
16 divisions within the Department of
17 Environmental Protection have advised
18 you they will have delivered to you an
19 operational plant for you to bring
20 on line by a date certain and operate
21 the wells at Station 6?

22 A. No, I have not been given a
23 date certain.

24 Q. With regard to the other